



**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR-5961-N-02]**

**Additional Clarifying Guidance, Waivers, and Alternative Requirements for grantees in Receipt of Community Development Block Grant (CDBG) Disaster Recovery Grant Funds under the Disaster Relief Appropriations Act, 2013**

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice modifies a waiver and alternative requirement for the State of New Jersey's tenant-based rental assistance program funded through its Community Development Block Grant disaster recovery (CDBG-DR) grant pursuant to the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2) (the Appropriations Act). A waiver and alternative requirement for the tenant-based rental assistance program was initially published in a Federal Register notice on July 11, 2014 (79 FR 40134), and later modified in the Federal Register notice published on April 2, 2015 (80 FR 17772).

**DATES:** Effective Date: **[INSERT DATE 5 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER.]**

**FOR FURTHER INFORMATION CONTACT:** Jessie Handforth Kome, Acting Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW, Room 7286, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339. Facsimile inquiries may be sent to Mr. Stan Gimont at 202-401-2044.

(Except for the "800" number, these telephone numbers are not toll-free.) Email inquiries may be sent to [disaster\\_recovery@hud.gov](mailto:disaster_recovery@hud.gov).

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## **I. Background**

The Appropriations Act made available \$16 billion in Community Development Block Grant disaster recovery funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization in the most impacted and distressed areas, resulting from a major disaster declared pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et. seq.) (Stafford Act), due to Hurricane Sandy and other eligible events in calendar years 2011, 2012, and 2013. On March 1, 2013, the President issued a sequestration order pursuant to Section 251A of the Balanced Budget and Emergency Deficit Control Act, as amended (2 U.S.C. 901a), and reduced the amount of funding for CDBG–DR grants under the Appropriations Act to \$15.18 billion. To date, a total of \$15.18 billion has been allocated or set aside: \$13 billion in response to Hurricane Sandy, \$514 million in response to disasters occurring in 2011 or 2012, \$655 million in response to 2013 disasters, and \$1 billion for the National Disaster Resilience Competition. This notice modifies the waiver and alternative requirement initially published in the Federal Register notice on July 11, 2014 (79 FR 40133), and later modified in the Federal Register notice published on April 2, 2015 (80 FR 17772). All waivers and alternative requirements for Hurricane Sandy

grantees in receipt of allocations under the Appropriations Act, are described within the **Federal Register** notices published by the Department on March 5, 2013 (78 FR 14329), April 19, 2013 (78 FR 23578), August 2, 2013 (78 FR 46999), November 18, 2013 (78 FR 69104), March 27, 2014 (79 FR 17173), July 11, 2014 (79 FR 40133), October 16, 2014 (79 FR 62182), April 2, 2015 (80 FR 17772), and May 11, 2015 (80 FR 26942), August 25, 2015 (80 FR 51589), November 18, 2015 (80 FR 72102), February 12, 2016 (81 FR 7567), and August 15, 2016 (81 FR 54114) (referred to collectively in this notice as the “prior notices”). The requirements of the prior notices continue to apply, except as modified by this notice.<sup>1</sup>

## **II. Applicable Rules, Statutes, Waivers, and Alternative Requirements**

The Appropriations Act authorizes the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with HUD’s obligation or use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). Waivers and alternative requirements are based upon a determination by the Secretary that good cause exists and that the waiver or alternative requirement is not inconsistent with the overall purposes of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (HCDA). Regulatory waiver authority is also provided by 24 CFR 5.110, 91.600, and 570.5.

For the waiver and alternative requirement described in this notice, the Secretary has determined that good cause exists and that the waiver and alternative requirement are not inconsistent with the overall purpose of Title I of the HCDA. Grantees may request waivers and alternative requirements from the Department as needed to address specific needs related to their

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<sup>1</sup> Links to the prior notices, the text of the Appropriations Act, and additional guidance prepared by the Department for CDBG–DR grants, are available on the HUD Exchange Web site: <https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/>.

recovery activities. Under the requirements of the Appropriations Act, waivers must be published in the **Federal Register** no later than 5 days before the effective date of such waiver.

*1. Tenant-based rental assistance (State of New Jersey, only).* The State of New Jersey requested a waiver of 42 U.S.C. 5305(a) in order to provide up to \$17 million in tenant-based rental assistance to households beyond the permissible length of time, and this waiver was granted by the Department in the Federal Register notice published on July 11, 2014 (79 FR 40134). While existing CDBG regulations allow payments for these purposes, those regulations limit assistance to a period not to exceed three months. The State justified longer term assistance in order to meet the housing needs of vulnerable populations until the State completes construction of affordable rental units and those units are made available to low- and moderate-income (LMI) populations.

The State later requested that HUD increase the amount covered by the waiver from \$17 million to \$32 million, and extend the period of assistance by two years, to January 1, 2018, in order to meet the goals of a Voluntary Compliance Agreement (VCA) with the Department. HUD granted this waiver extension in the April 2, 2015 Federal Register notice (80 FR 17772) to support the State's compliance with its VCA and because of the continued lack of affordable housing caused by Hurricane Sandy.

The State of New Jersey recently requested an extension to the expenditure deadline to January 1, 2019, to allow the State to provide up to two years of assistance to this LMI population. Without this extension, 85% of this LMI population would not be able to receive the full two years of assistance under the TBRA program. Because the Department is committed to assisting this population and allowing the State to disburse the full amount of assistance made available by the VCA, HUD is modifying its waiver of 42 U.S.C. 5305(a) to the extent necessary

to allow the State to disburse the \$32 million in Community Development Block Grant disaster recovery (CDBG-DR) funds allocated to State's TBRA program until January 1, 2019. The funds extended through this waiver are subject to the 24-month limitation on assistance and all other waiver and alternative requirements related to the TBRA program in the notice published on July 11, 2014 (79 FR 40133), as modified by the notice published on April 2, 2015 (80 FR 17772), as well as the requirements of the VCA and any subsequent amendments to the VCA.

### **III. Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this Notice is 14.269.

### **IV. Environmental Review**

This Notice does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing (other than tenant-based rental assistance), rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this Notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C 4321).

Dated: February 3, 2017

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Janet M. Golrick,  
Acting Deputy Secretary

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